



# San Diego City Attorney **MICHAEL J. AGUIRRE**

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## NEWS RELEASE

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### **CALTRANS CRITICIZES THE CITY FOR ALLOWING DEVELOPER TO CONTINUE “ILLEGAL CONSTRUCTION” NEAR MONTGOMERY FIELD**

**San Diego, CA:** A stern letter asking the City to “rigorously enforce” the stop work notice on a tall building under construction which is posing a safety hazard to pilots and the public at Montgomery Field was sent by the California Department of Transportation on January 19, 2007 to the City’s Deputy Chief of Land Use and Economic Development, the Mayor, and City Council. The letter also vigorously supports the City Attorney’s lawsuit filed on January 10, 2007, against the developer as the “necessary first legal step in removing the hazard posed by the Sunroad Centrum 1 building.”

“Sunroad Enterprises demonstrated a complete disregard for the safety of San Diegans by blatantly ignoring demands from government agencies to halt the construction of a building looming into federal airspace and threatening air traffic at Montgomery Field,” said City Attorney Michael Aguirre. “As City Attorney, I was left with only one option-- to file a lawsuit against Sunroad to protect the lives of the public and pilots.”

In the letter, Caltrans states that “the City’s attempts to pass liability for the illegal construction on to Sunroad entirely miss the point. This issue is not about who has liability for the hazard, but taking action to remove the hazard so that liability is not an issue. When the facts of the situation show a developer failed to comply with a federal notification regulation (Federal Aviation Regulation Part 77.17), used that violation of federal regulation to obtain local planning and building approval, knowingly began construction of a building determined by a federal agency to be a hazard, constructed parts of the building in violation of State law (PUC Section 21659), and continue to defy state and local attempts to resolve the situation, the reluctance of the City to take the necessary steps to protect its citizenry is a mystery. ”

The City Attorney's Office has been in close contact with the FAA in Washington DC and locally, and with Cal Trans. According to information received from these Federal and State regulatory agencies, the Sunroad Building at 180 feet remains a hazard and public nuisance.

Since April 2006, Sunroad has known that the Federal Aviation Administration (FAA) considered the Sunroad Centrum I building a hazard to air traffic at Montgomery Field; however, they have proceeded to complete the building.

(MORE)

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In October 2006, the California Department of Transportation, Division of Aeronautics, (Cal Trans) requested the assistance of the City Attorney's Office to compel the City to issue a Stop Work Notice to halt the construction of the Sunroad building.

On October 27, 2006, a Stop Work Notice was issued by the City.

Despite all of the actions taken, Sunroad continued to complete the building at the prohibited height of 180 feet-- under the guise of "weatherizing" the building which the City's Development Services Department approved by letter on December 21, 2006.

The Aircraft Owners & Pilots Association, Inc., and the Community Airfields Association of San Diego have also joined the City Attorney's lawsuit.

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